

### **REMARKS**

Claims 1, 3, 4 and 6-21 are pending in the present application. Claims 12-21 have been allowed by Examiner. Claim 2 is cancelled. Claim 5 is cancelled and its limitation is added to the limitations of independent Claim 1. Claim 6 is amended to correct its dependency given the cancellation of Claim 5.

### **CLAIM OBJECTIONS**

#### **Claims 5-7, 9 and 11**

Examiner objected to dependent Claims 5-7, 9, and 11 as being dependent upon a rejected base claim (i.e., Claim 1). However, Examiner graciously indicated she would allow these objected claims if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, Applicant amended independent Claim 1 to include the limitations of Claim 5, and cancelled Claim 5 as redundant. Claim 1 is now the equivalent of Claim 5 "rewritten in independent form including all of the limitations of the base claim and any intervening claims," and is now in a condition for allowance. Moreover, dependent Claims 6-9 and 11 each incorporate fully the limitations of independent Claim 1 and are also believed to be in a condition for allowance. Applicant respectfully requests withdrawal of this claim objection and allowance of the claims as presented herein.

### **CLAIM REJECTIONS – 35 U.S.C. § 103**

#### **Claims 1, 3, 4, 8, and 10**

Examiner rejected claims 1, 3, 4, 8, and 10 under 35 U.S.C. § 103(a) as being unpatentable over Tancevski (US 2006/0092958) in view of Fumagalli, et al. ("A Token Based Protocol . . ." as provided by Applicant in a recently filed IDS). More specifically, Examiner stated:

In regards to claim 1, Tancevski discloses a network comprising: a plurality of data channels (figure 2 element 24 discloses multiple data channels); a control channel (fig. 2.22 discloses a control channel); tokens which pass between nodes on the control channel (fig. 4.30 discloses a token which is passed on the control channel); wherein tokens advertise availability of receivers at

a destination node and notify a source when a transmission did not succeed (paragraph 27 discloses sending a NACK message when the transmission did not succeed.).

Tancevski is silent wherein nodes evaluate the tokens to determine if a data pay load is destined for and simultaneously arriving at that node on one of the data channels. Fumagalli discloses a "tell-and-go" technique in section 3.2. As described in section 3.2. 1 the token is sent on the control channel at the same time data is sent on the data channel, k. Therefore the payload will arrive simultaneously with the token at the destination node.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the "tell-and-go" method developed by Fumagalli with the network of Tancevski because doing so maximizes bandwidth utilization and minimized latency, as taught by Fumagalli in the abstract section.

In regards to claim 3, Tancevski discloses notifying a source when transmission did not succeed with a NACK in figure 5 and paragraph 27. Further, paragraph 28 indicates each node is kept current about the status of each node and which channels are in use, so a node is notified if a channel it tried to reserve has already been reserved by a different node.

In regards to claim 4, Tancevski discloses the network of claim 1, wherein each node of the network has fewer transmitters and receivers than data channels (Paragraph 27 indicates some or all stations are tunable to only a subset of the channels).

In regards to claim 8, Tancevski and Fumagalli disclose the network of claim 1, wherein tokens comprise subsets each associated to a RX/TX waveband range and are treated collectively during configuration (Fumagalli discloses the token format in section 3.3. The token format includes one bitmap for each node in the ring. Each bitmap includes a bit for each channel and each channel is a separate RX/TX waveband range.).

In regards to claim 10, Tancevski discloses reserving apparently available receivers at downstream nodes without external confirmation. Figure 6 illustrates the table kept by each node to indicate the availability of other nodes and channels. This information is used to reserve a receiving node. Fumagalli discloses reserving downstream nodes without confirmation in section 3.2.1. When a node wishes to transmit it consults its table of in-use channel. If one seems available the node begins transmitting without confirmation of availability.

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Neither Tancevski nor Fumagalli, either alone or in combination, teach or suggest the limitations of amended Claim 1. Examiner, in her objection to dependent Claim 5, indicated that Claim 5 would be allowable if rewritten in independent form. Applicant has rewritten Claim 1 to include Claim 5's limitations, achieving the same affect. Thus, amended Claim 1 is now allowable in light of Examiner's recommendations. Claims 3, 4, 8, and 10 are dependent upon novel and nonobvious Claim 1, rendering them allowable as well. Applicant respectfully requests Examiner withdraw this rejection and allow the claims as presented herein.

**CONCLUSION**

Applicant has adopted the Examiner's suggestions, where applicable, and believes the claims are now in condition for allowance. It is respectfully urged that the subject application is patentable over the references cited by Examiner. Applicant requests reconsideration of the claims and allowance as presented herein. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, Examiner is cordially invited to contact Steven H. Washam at 972-367-2001.

The Commissioner is hereby authorized to charge any shortages or credit any overpayments to Deposit Account 50-0392.

Respectfully submitted,

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Date: November 3, 2008  
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